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Via ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: American Cable Association ("ACA") *Ex Parte* Filing on the Connect America Cost Model, WC Docket No. 10-90

Dear Ms. Dortch:

On February 27, 2013, Ross Lieberman (ACA), Ed Naef and Samuel Kornstein (consultants to ACA), and the undersigned, Thomas Cohen (Kelley Drye & Warren LLP), met with the following staff from the Wireline Competition Bureau: Carol Mattey, Amy Bender, Ryan Yates, and Erin Boone. The purpose of the meeting was to review issues raised and proposals submitted by ACA in the Commission's Connect America Fund Phase I Incremental Support Further Notice of Proposed Rulemaking in the above-referenced docket.

ACA representatives began the meeting by emphazing that the Commisison designed the CAF Phase I Incremental Support program to be interim and limited while it worked on the cost model for Phase II support. Accordingly, they submitted that the Commission should proceed cautiously in establishing any new and more elaborate regulatory regime and should certainly not make amendments to its rules unless it has sufficient evidence that the rules are so restrictive or arbitrary that they do not meet the objectives for the program.

ACA representatives then discussed in detail the evidence it submitted in its comments and noted that the price cap local exchange carriers (LECs) comments and filings are largely devoid of data to justify: any expansion of the areas where support should be provided, any increase in the amount of support per location, or use of support for the deployment of second-mile fiber. As such, the Commission has no basis – other than from the data submitted by ACA – to amend its rules for the distribution of Phase I Incremental Support.

ACA representatives stated that the Commission would continue to achieve its objectives for the program by not altering its rules for price cap LECs that have more than a sufficient number of eligible lower cost locations based on the 2013 allocation that are not served with broadband service at speeds of 768/200 kbps. These price cap LECs have a sound commercial rationale to use their entire allocation of incremental support of $775 per location. At the same time, they stated that the Commission may consider altering its rules for those price cap LECs that have an insufficient number of eligible lower cost locations based on the 2013 allocation not served with broadband service at speeds of 768/200 kbps. In these instances, price cap LECs should be able to use Phase I incremental support to deploy broadband to locations in areas that do not currently receive 4/1 Mbps broadband service but only after the LEC uses its support to deploy broadband to its remaining lower cost unserved locations with at most 768/200 kbps service. By requiring lower cost unserved locations with 768/200 kbps to be served first, ACA's approach helps ensure the Commission's objective for the program is achieved. It also would avoid providing these LECs with surplus funds, which they could use for "non-supported" purposes, thereby harming competitive, high performance infrastructure deployments.

Because the Commission can address any potential concerns with the current rules by a simple adjustment in eligible areas, ACA representatives argued that the Commission does not need to increase the amount of support per location nor does it need to establish a new second-mile fiber component to the program, since under ACA's proposal each price cap LEC will now have more than a sufficient number of lower cost unserved locations. In any event, because these two new proposals provide imprecise estimates of cost and required support, they will distribute support inefficiently and thus should be rejected.

As for distribution of "leftover" 2012 Phase I incremental support, Mr. Lieberman stated that the Commission should either add the amount to Phase II distribution where it can be distributed more efficiently or return the money to consumers by lowering the contribution rate paid by them. By adopting its position, the Commission also would prevent gaming by price cap LECs that accepted support in 2012 but decide to return it and reclaim that support in 2013 and use it under more lenient amended rules.

Finally, ACA representatives briefly discussed the process for challenging classifications of areas being either served or unserved on the National Broadband Map (NBM). ACA believes it is important for the NBM to serve as the source of credible information about broadband deployments throughout the United States and therefore supports efforts to ensure the NBM is accurate. It therefore supports a process for challenging NBM designations that are based on the presumption that the map is accurate and that places the initial burden on those challenging classifications to submit sufficient probative evidence.

This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,

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